

CR No.4174 of 2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(129)

CR No.4174 of 2023
Date of Decision:10.08.2023.

M/S D S K REALTORS PVT LTD

.....Petitioner

Versus

SAVINDER SINGH AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Ashok Kumar Arora, Advocate
for the petitioner.

VIKRAM AGGARWAL, J. (ORAL)

CM-13424-CII-2023

Prayer in the present application is for placing on record the interlocutory orders passed by the trial Court after 16.05.2022.

For the reasons mentioned in the application, the same is allowed and interlocutory orders, Annexure R-5 (collectively) are taken on record.

Registry is directed to tag the same at an appropriate place on the case file.

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1. The present revision petition assails the order dated 16.05.2022 (Annexure P-2) passed by the Additional Civil Judge (Sr. Division), Amritsar, vide which evidence of the present petitioner-plaintiff was closed by orders of the Court.

2. The facts, as emanating from the record, are that the petitioner-plaintiff filed a suit for possession by way specific performance of agreement to sell dated 19.10.2012 stated to have been executed by the respondents-defendants with regard to sale of land measuring 18 Kanals 4 Marlas, situated at Rakba Village Meeran Kot Kalan, Tehsil and District Amritsar (fully described in the plaint Annexure P-2).

3. During the course of the trial, while the evidence of the petitioner-plaintiff was going on, the same was closed by the trial Court observing that the petitioner-plaintiff had availed 16 effectives opportunities including numerous last opportunities apart from other adjournments granted on account of the COVID-19 Pandemic and despite undertakings having been given, the evidence of the petitioner-plaintiff had not been concluded. It was observed that even the process fee/diet money/list of witnesses had not been deposited.

4. Learned counsel for the petitioner has submitted that the evidence of the petitioner-plaintiff could not be concluded for reasons which were beyond the control of the petitioner-plaintiff. He submits that now the petitioner-plaintiff has changed its counsel and would require only one effective opportunity to conclude its evidence.

5. Since the decision of the present revision petition will not adversely affect the rights of respondent-defendants, notice is not being issued.

6. I have considered the submissions made by learned counsel for the petitioner.

7. I do not find any illegality in the order passed by the trial Court, vide which the evidence of the petitioner was closed. The conduct of the petitioner-plaintiff has also been noted by the trial Court and it appears that the proceedings were being taken very casually by the petitioner-plaintiff.

8. Be that as it may, this Court is of the considered opinion that keeping in view the fact that learned counsel for the petitioner has submitted that the petitioner-plaintiff would require only one more effective opportunity to conclude its evidence, the same should not be denied since it is well settled that matters should be decided on merits and should not be rejected on technicalities.

In view of the aforesaid, the present revision petition is allowed and the order dated 16.05.2022 (Annexure P-2) passed by the Additional Civil Judge (Sr. Division), Amritsar, is set aside. The trial Court is directed to grant one effective opportunity to the petitioner-plaintiff to conclude its evidence as per its convenience. This opportunity shall however be subject to payment of ₹15,000/- as costs to the respondents-defendants.

August 10th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.